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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,649	10/08/2003	Amy L. Nehls	67565	6105
48940 7590 04/29/2008 FITCH EVEN TABIN & FLANNERY 120 S. LASALLE STREET SUITE 1600 CHICAGO, IL 60603-3406				
EXAMINER				
THAKUR, VIREN A				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
04/29/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/681,649

**Applicant(s)**

NEHLS ET AL.

**Examiner**

VIREN THAKUR

**Art Unit**

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 17-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 28-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-2, 9, 11, 15-16 and 28-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson et al. (US 5711981) for the reasons given in the prior Office Action, mailed October 11, 2007.**

Regarding claim 1, the new limitation reciting "the food product having a length greater than a length of the steam sleeve such that the food product at least partially blocks both the entrance and exit during at least part of the step of passing the food product through the steam sleeve" is anticipated by Wilson et al. It is noted that the food product of Wilson et al. has "a length" which would have been greater than "a length" of the steam sleeve. The claim does not specify what length of the steam sleeve the food product must be greater than. Furthermore, the claim is unclear as to what is considered partially blocking. It is noted that Wilson et al., must block the entrance and the exit of the steam sleeve since the food product is passed through the sleeve. Therefore at some point in the process the entrance and the exit will be blocked. Regarding new claim 28, Wilson et al. discloses placing a food product having an outer

surface on an advancement mechanism, providing steam to treat the outer surface, passing the food through the steam sleeve and circulating the flow of steam. Regarding the channel being inwardly open to an interior of the sleeve, it is noted that Wilson et al. also disclose this limitation. The limitation "inwardly open to an interior of the sleeve" reads on figure 9a, item 136 being open to the sleeve, such that the steam can contact the food product. The channel must be inwardly open to the interior of the sleeve in order for the steam to contact the food product. Regarding claim 29, the limitation "at least partially blocking" is broad. By being inside the steam sleeve during sterilization, for instance, the food product would at least partially block the entrance to the steam sleeve. This would be similar to someone standing inside of a door, but still blocking the door so as to prevent someone else from walking in. Further regarding claims 1, 28 and 29, it is noted that Wilson et al. also disclose that the chamber at least partially receives the meat (Column 4, lines 2-3). This discloses that the meat is not necessarily enclosed within the chamber and therefore the meat would partially block the entrance and exit during the process of conveying the meat through the steam chamber. Regarding claim 30, it is noted that Wilson et al., teach circulating the steam (column 4, lines 50-51). Wilson et al. also show multiple ports for entrance of steam, as shown in figure 5, item 136 as the downwardly extending channels. Since Wilson et al. is circulating the steam and has multiple channels, Wilson et al., would circulate the steam around the perimeter of the product multiple times. It is further noted that since Wilson et al. is circulating the steam, that the application of the steam between the inlet and outlet of the channel would also inherently occur multiple times, since this is the basis

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for circulating steam or any gas. By circulating, the steam would continuously flow around the perimeter of the product between the inlet and outlet. Regarding claim 31, Wilson et al, show multiple channels in figure 5, item 136 as the downwardly extending channels. As discussed above, these are interpreted as being inwardly open to an interior of the sleeve.

**3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Mauer (US 5741536) for the reasons given in the previous Office Action, mailed October 11, 2007.**

Regarding the limitation of the food product at least partially blocking both the entrance and exit during at least part of the step of passing the food product through the steam sleeve, the interpretation applied above with respect to Wilson et al., is also incorporated herein.

**4. Claims 1, 8, 9, 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Morris, Jr. (US 5439694).**

The interpretation of the new limitations to claim 1 and to new claims 28-29 are incorporated herein, as discussed above with respect to the Wilson et al. rejection. Additionally, however, Morris Jr. discloses placing a food product having an outer surface on an advancement mechanism, providing a steam sleeve for generating a flow of steam to treat the outer surface of the food product and passing the food product in a feed direction through the steam sleeve using the advancement mechanism (See

Figure 1). The food product enters the steam sleeve through rubber doors (figure 1, item 34) and steam contacts all the exposed surfaces of the food product (Column 3, lines 21). The steam is continuous unless it results in over heating of the food. In order to prevent this, Morris Jr., disclose using sensors and an electronic solenoid valve to cut off steam whenever the conveyor line stops (Column 3, lines 19-27). Regarding claims 28 and 29, it is noted that the steam is introduced into the steam sleeve using channel (Figure 1, item 36), which is inwardly open to the interior of the sleeve. Regarding claim 29, the steam is continuous as discussed above, and as shown in the figure, the food product at least partially blocks the entrance and the exit during the step of generating the flow of steam in the steam sleeve.

Regarding claim 8, Morris Jr. discloses a seal, using rubber doors (Figure 1, Item 34) to form a seal between the outer surface of the food product and at least one of the entrance and exit of the steam sleeve using a generally flexible wiper element. Since the rubber doors are flexible, they seal the chamber and would also act as a wiper element against the surface of the food product.

Regarding claim 9, Morris Jr. discloses continuous advancement of the food product since the food product is fed into the steam sleeve. The steam generation is only stopped whenever the conveyor is stopped, for the purpose of preventing overheating of the food product (Column 3, lines 19-27).

***Claim Rejections - 35 USC § 103***

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. **Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al. (US 5711981) for the reasons given in the previous Office Action, mailed October 11, 2007.**

8. **Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al. (US 5711981) in view of Pikus et al. (US 6098307) for the reasons given in the previous Office Action, mailed October 11, 2007.**

9. **Claims 3-7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al. (US 5711981) in view of Gressly (US 2682827) for the reasons given in the previous Office Action, mailed October 11, 2007.**

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**10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al. (US 5711981) in view of Kennedy et al. (US 2153572) for the reasons given in the previous Office Action, mailed October 11, 2007.**

### ***Response to Arguments***

11. Applicants arguments assert that the new limitations to the claims are not disclosed in the Wilson et al. reference. These arguments are not persuasive based on the reasons for rejection, discussed above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VIREN THAKUR whose telephone number is (571)272-6694. The examiner can normally be reached on Monday through Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571)272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. T./  
Examiner, Art Unit 1794

/Steve Weinstein/  
Primary Examiner, Art Unit 1794

